

**FILED**

UNITED STATES DISTRICT COURT  
ALBUQUERQUE, NEW MEXICO

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW MEXICO

MAR 24 2009

UNITED STATES OF AMERICA, )  
Plaintiff, )  
vs. )  
DANA JARVIS, *et al.*, )  
Defendant. )

**MATTHEW J. DYKMAN**  
CLERK

**CR 05-1849 JH**

**AFFIDAVIT OF DEFENDANT DANA JARVIS IN SUPPORT OF HIS  
OBEJECTIONS & EXCEPTIONS TO THE PRE-SENTENCE REPORT [Doc. 1539]**

STATE OF NEW MEXICO )  
                          ) SS  
COUNTY OF TORRANCE )

I, Dana Jarvis, being over the age of eighteen and the Defendant in the above entitled case, do swear and affirm the following:

1. The calculations in the PSR regarding the amounts of marijuana involved in this conspiracy are grossly inflated, apparently due to the United States' inaccurate interpretation of the ledgers seized contemporaneously with my August 25, 2005 arrest. The calculations presume that the quantities of marijuana remained the same throughout the fifteen year period, which is not accurate. The government, by AUSA Braun, correctly acknowledged on the record during the change of plea hearing that I was not in business for several years in the 1990's. The government also correctly acknowledged that the amount charged to and by the business for its product increased over the years. Additionally, like most businesses, there were both good and bad years during the fifteen year span and it did not operate at all during several of those years. Most of the business'

proceeds were used to pay for the marijuana and otherwise meet the operating expenses.

2. Regarding quantities of marijuana, the ledger located in my Bernalillo house indicates the sizes of loads of marijuana. The seized ledger shows that one job entailed 930 pounds and the balance involved jobs of less than 100 to just over 300 pounds, not the several thousand pound jobs alleged by CW1 (see PSR, p 20, ¶ 93). None of the seizures in this case exceeded several hundred pounds.

3. I believe that a significant portion of the information provided by some of the CWs and CSs in this case is inaccurate, contradictory, exaggerated or outright made up. I believe that this is the result of their desire to obtain better deals, less time in custody and monetary and other payments from the government. I further believe that this information is unreliable for these and other reasons described in my sentencing pleadings.

4. On page 27, ¶ 125 the information given regarding amounts of marijuana is wrong. Following is the accurate interpretation of what the ledgers reflect.

Marijuana seasons straddle two years, commencing in October/November and ending in May/June. In personally reviewing the government figures supposedly based upon the ledgers, it appears to me that the agents counted two seasons as one. The seasons were separated by lines drawn in the ledger book, which apparently the government failed to understand in their hypothetical as to how the ledgers were set up. The ledger contains descriptions of some jobs from the prior season (2003-04). My detailed review of my own ledgers seized from my Bernalillo house shows the actual ledger information to indicate a total of 11 jobs in the businesses' final season of 2004-05, involving the following amounts (in pounds) per job: 234.15; 930.10; 201.40;

199.70; 308.10; 90.36; 252.08; 224; 218.35; 284.95; 288.15, for a total of 3131.44 pounds, or 1423.38 kilograms, rather than the 8000 pounds or 3600 kilos as stated in the report.

5. Regarding page 38, ¶ 179, I believe the quantity of marijuana is incorrect. The correct total for the 2004-05 seasons were 3131 pounds. My recollection of the approximate amounts (in pounds) of marijuana for each season is: 1990-1: 700; 1991-2: 0; 1992-3: 0; 1993-4: 0; 1994-5: 700; 1995-6: 700; 1996-97: 1200; 1997-8: 1200; 1998-9: 1200; 1999-00: 2000; 2000-01: 2000; 2001-02: 2000; 2002-03: 2800; 2003-04: 4000; 2004-05: 3131 for a total of approximately 21,631 pounds or approximately 9,832 kilograms (KG). The figure in my objections (Doc. 1539) was based on a mathematical error and the above figure represents my sincere belief of the maximum amounts dealt with in the years of the conspiracy.

Dana Emerson Jarvis  
DANA EMERSON JARVIS

~~Sworn to and subscribed before me  
on this \_\_\_\_\_ day of March, 2009.~~

~~witnessed by attorney Gary Mitchell~~  
Gary C Mitchell  
NOTARY PUBLIC  
Defense Counsel  
My commission expires \_\_\_\_\_.